

1 Michael L. Charlson (SBN 122125)
mcharlson@velaw.com
2 **VINSON & ELKINS LLP**
525 Market Street, Suite 2750
3 San Francisco, California 94105-2763
Telephone: (415) 979-6900
4 Facsimile: (415) 651-8786

5 Attorneys for Defendant
ENERGY CORPORATION OF AMERICA

6 [Name and Address of Additional
7 Counsel Listed on Signature Page]

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

12 RUSSIAN HILL CAPITAL, L.P.,

13 Plaintiff,

14 vs.

15 ENERGY CORPORATION OF AMERICA
and DOES 1-10,

16 Defendants.
17

Case No. 3:15-cv-02554-HSG

**STIPULATION AND ORDER TO
POSTPONE INITIAL CASE
MANAGEMENT CONFERENCE AND
RELATED DATES**

Before the Hon. Haywood S. Gilliam, Jr.

18
19 WHEREAS, Plaintiff Russian Hill Capital, L.P. (“Russian Hill”) commenced this action
20 by filing its Complaint For: (1) Fraud [and] (2) Misrepresentation of Facts – Cal Corp Code §
21 25501(the “Complaint”) on May 5, 2014 in the Superior Court of the State of California, County
22 of San Francisco;

23 WHEREAS, Russian Hill served the Complaint on Defendant Energy Corporation of
24 America (“ECA”) on May 14, 2015;

25 WHEREAS, ECA removed the action to this Court on June 9, 2015, with ECA’s filing of
26 its Notice of Removal;

27 WHEREAS, on June 16, 2015, ECA filed a motion to dismiss the Complaint;

28 WHEREAS, on July 7, 2015, Russian Hill elected not to oppose ECA’s motion to dismiss

STIP. & ~~PROPOSED~~ ORDER TO POSTPONE
INITIAL CASE MANAGEMENT CONFERENCE

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1 and instead exercised its right under Fed. R. Civ. P. 15(a)(1)(B) to amend its pleading by filing its
 2 First Amended Complaint For: (1) Fraud, (2) Misrepresentation of Facts – Cal Corp Code §
 3 25501, [and] (3) Violation of Section 14(e) of the Exchange Act (the “First Amended
 4 Complaint”);

5 WHEREAS, ECA filed a motion to dismiss directed to the First Amended Complaint (the
 6 “Motion”);

7 WHEREAS, briefing on the Motion is continuing, and a hearing on the Motion is
 8 scheduled for the Court’s regular law-and-motion calendar on Thursday, September 24, 2015;

9 WHEREAS, an initial case management conference was scheduled in this matter when it
 10 was first filed and is currently on calendar for Tuesday, September 8, 2015;

11 WHEREAS, in light of the procedural posture of the case, the parties believe that it would
 12 be more efficient to postpone the initial case management conference and related proceedings
 13 (including the dates contemplated by the Initial Case Management Scheduling Order, the
 14 preparation of an initial case management conference statement and initial disclosures and meet-
 15 and-confer obligations under Fed. R. Civ. P. 26) until after the Court’s disposition of the Motion;

16 THEREFORE, subject to the Court’s approval, the parties agree as follows:

17 STIPULATION

18 1. The Case Management Conference currently scheduled in this action for
 19 September 8, 2015, is vacated, together with all associated dates set out in the Initial Case
 20 Management Scheduling Order and deadlines for the filing of a case management conference
 21 statement, initial disclosures and meet-and-confer discussions under Fed. R. Civ. P. 26. In
 22 addition, the parties are excused for now from filing an ADR Certification or to meet-and-confer
 23 to select an ADR process.

24 2. Within ten days of the Court’s disposition of the Motion, the parties will propose
 25 to the Court a schedule for an initial case management conference and related dates (including
 26 initial disclosures and timing for meet-and-confer discussions to select an alternative dispute
 27 resolution process), which proposed schedule can and should take into account the timing of any
 28 further proceedings that may be necessary in light of the Court’s disposition of the Motion. For

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1 example, should the Court grant the Motion with leave to amend and Russian Hill indicates an
2 intention to amend its pleading, the parties' proposed schedule may contemplate a delay in an
3 initial case management conference until after the further amendment to the complaint or
4 disposition of a new motion to dismiss that hypothetical amended complaint.

5 3. The Clerk's Notice concerning compliance with the Court's local ADR-related
6 rules dated August 19, 2015, is also vacated pending the Court's resolution of the Motion.

7
8 Dated: August 20, 2015

VINSON & ELKINS LLP

9
10 By: /s/ Michael L. Charlson
Michael L. Charlson

11 Attorneys for Defendant
12 ENERGY CORPORATION OF AMERICA

13 KAUFHOLD GASKIN LLP
14 Steven S. Kaufhold (SBN 157195)
Jonathan B. Gaskin (SBN 203615)
15 388 Market Street, Suite 1300
San Francisco, California 94111
16 Telephone: (415) 445-4620

17
18 By: /s/ Steven S. Kaufhold
Steven S. Kaufhold

19 Attorneys for Plaintiff
20 RUSSIAN HILL CAPITAL, LP

ORDER

Pursuant to stipulation of the parties and good causing appearing, IT IS SO ORDERED. The initial Case Management Conference currently scheduled for September 8, 2015, together with related dates for filing of a case management conference statement and for initial disclosures and meet-and-confer discussions under Fed. R. Civ. P. 26, are postponed pending the Court's resolution of Defendant's pending motion to dismiss. The Clerk's Notice concerning compliance with the Court's local ADR-related rules dated August 19, 2015, is also vacated pending the Court's resolution of the Motion.

Dated: August 21, 2015


United States District Judge

ATTESTATION OF ELECTRONIC FILING

I, Michael L. Charlson, am the ECF User whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER TO POSTPONE INITIAL CASE MANAGEMENT CONFERENCE AND RELATED DATES. I hereby attest that counsel whose e-signatures appear above have concurred with this filing.

Dated: August 20, 2015

VINSON & ELKINS LLP

By: /s/ Michael L. Charlson
Michael L. Charlson

Attorneys for Defendant
ENERGY CORPORATION OF AMERICA

CERTIFICATE OF SERVICE

The undersigned certifies that on August 20, 2015, the foregoing document was electronically filed with the Clerk of the Court for the UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, using Court's Electronic Case Filing (ECF) system. The ECF system routinely sends a "Notice of Electronic Filing" to all attorneys of record who have consented to accept this notice as service of this document by electronic means.

Dated: August 20, 2015

VINSON & ELKINS LLP

By: /s/ Michael L. Charlson
Michael L. Charlson

Attorneys for Defendant
ENERGY CORPORATION OF AMERICA